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OFFICE OF PETITIONS

In re Application of :
John F. Porter :
Application No. 10/696,751 :
Filed: October 29, 2003 :
Attorney Docket No. 11277-0039 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

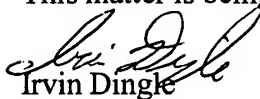
The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 17, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1020 extension of time submitted with the petition on July 5, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1733 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy